



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,065	12/20/2000	Jack Gershfeld		5864

24958 7590 06/29/2005

VLADIMIR KHITERER  
KHITERER LAW OFFICE  
2109 W. COAST HWY., SUITE 200  
NEWPORT BEACH, CA 92663

EXAMINER
----------

BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
----------	--------------

2611

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/740,065

Applicant(s)

GERSHFELD, JACK

Examiner

Reuben M. Brown

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 3/28/2005 have been fully considered but they are not persuasive. Applicant argues on page 4, that in the reference relied upon in the Office Action of 3/11/2005, Kaneko, that "only half of each image coming from the TV receiver and VCR can be viewed at any given time". Examiner respectfully disagrees, since nowhere in Kaneko is there such a statement. While it is true that Kaneko discusses that the two images from the TV and VCR, may be displayed side-by-side or top and bottom of the screen, the reference does not state that only half of the images are shown, as argued by applicant.

Applicant goes on to argue on page 4 that the present invent is distinguished from Kaneko, since it displays the degraded and reference images, as "full images". First of all, it is pointed out that examiner did not find any disclosure of the claimed "full image", in the specification, and thus a 112, 1<sup>st</sup> paragraph rejection has been made. Secondly, in numerous passages, applicant's specification states that the first test signal and reference signals are displayed on portions of the screen, as opposed to the images occupying the entire screen, (page 4, lines 16-22; page 5, lines 14-18; page 8, lines 19-22 & page 9, lines 21-23.

Therefore, if “full image” is understood to be consistent with applicant’s disclosure of displaying the images in portions of the screen, and not the entire screen, then the disclosure of Kaneko reads on the claimed “full image”.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Amended claim 1 includes the feature “full image”, which is not found in applicant’s invention. Thus the scope of “full image” is not defined. It is unclear whether “full image” means that the image has not been reduced, i.e., displayed at 100% (which would apparently preclude both images from being displayed simultaneously) or that the image is reduced so that it fits on only a portion of the screen, (which allows both of the images to be displayed simultaneously) but that the whole portion of the image is displayed, for instance.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko, (U.S. Pat # 4,257,066).

Considering claim 1, the amended claimed method of evaluating degradation of an electrical signal caused by a circuit comprising:

‘placing a first video signal in communication with a communication circuit, passing the first video signal through the circuit’, reads on a video program being broadcast, as taught by Kaneko using cable or over the air broadcasts, see col. 2, lines 46-50.

‘providing a means of synchronizing and combining electrical signals having a first and second input and at least one output is met by the operation of Kaneko, which receives up to two video inputs and outputs the synchronized video for display on a TV screen, Abstract, col. 1, lines 45-55 & col. 9, lines 5-20.

Art Unit: 2611

‘placing a second video signal identical to the first video signal, in communication with the second input of the means of synchronizing and combining’, reads on the disclosure in Kaneko that one of the inputs to the monitor circuits 11, may be from a VCR tape, col. 7, lines 1-10 & col. 8, lines 54-60. Kaneko does not state that the content of the VCR is the same as the first video signal, even though the invention is directed to comparing these two signals. Nevertheless, as for the content of the tape, such a feature falls within the scope of ‘intended use’. In other words, the content of the tape may be the same content as the video program being broadcast and received via antenna 31.

Thus, Official Notice is taken that at the time the invention was made, it was known to store video programming on a VCR tape that could also be broadcast. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to operate Kaneko in a manner that the content on the tape is the same as the content being received at antenna 31, since Kaneko is directed to comparing the two video sources in a side-by-side fashion, see Abstract & col. 1, lines 39-42.

‘placing the output of the synchronizing and combining means in communication with a video display such that full images and reference video signals are displayed simultaneously on different portions of the screen’, reads on the signals being fed to the monitor circuits 11 and TV screen 12, col. 9, lines 1-10. As for the claimed ‘full images’, it is noted that a 112, 1st paragraph rejection has been made since this term is not found in the specification. Furthermore, applicant’s specification discloses that the images are displayed only on portions of the screen and not the

Art Unit: 2611

whole screen. Therefore, if the disclosure of applicant's specification is a 'full image', then the disclosure in Kaneko also reads on the claimed 'full image'.

'presenting the two video signals separate from each other' and 'comparing the full images in order to assess the degradation of the reference video signal is met by the disclosure of Kaneko, col. 2, lines 35-60 & col. 9, lines 1-25, which is directed to presenting two video signals together in a TV screen for the purpose of comparison.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Galler Teaches testing the degrading of a CATV system by comparing a received signal to a reference value.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



Art Unit: 2611

**Any response to this action should be mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**or faxed to:**

(703) 872-9306, (for formal communications intended for entry)

**Or:**

(571) 273-7290 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9306 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown

  
CHRIS GRANT  
PRIMARY EXAMINER